IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO. 2134 OF 2001
To
FIRST APPEAL NO. 2138 OF 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HONOURABLE MR.JUSTICE K.M.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge?

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O. N. G. C. LTD. - Appellant(s)

Versus

STATE OF GUJARAT & ORS. - Respondent(s)

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Appearance :
MR. AJAY R. MEHTA for Appellant(s).
MR. PRAKASH K. JANI for Respondent(s) : 1,
None for Respondent(s) : 2 - 3.
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CORAM : HONOURABLE MR.JUSTICE R.S.GARG
and
HONOURABLE MR.JUSTICE K.M.MEHTA

Date : 13/10/2005

COMMON ORAL JUDGMENT
(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. Present are the appeals under Section-96 of the Code of Civil Procedure, 1908 (“the Code” for short) against Judgement and Award dated 17th July, 2000 passed in Land

Acquisition Reference Nos.2016 OF 1991 to 2020 of 1991 by the learned Extra Assistant Judge, Mehsana.

2. It is to be seen that the lands situate at Village Heduva (Hanumanth), District Mehsana, were notified for acquisition under Section-4(1) of the Land Acquisition Act, 1894 (“the Act” for short) on 10th October, 1985 and thereafter, a declaration was made under Section-6 of the Act on 2nd May, 1986. The claimants appeared before the Land Acquisition Officer and submitted that the compensation proposed was much less than the market value of the property. After hearing the parties and on going through the records, the Land Acquisition Officer awarded compensation at the rate of Rs.18/- per sq. mtr., though the claim of the claimants was Rs.226/- per sq. mtr.

Being dissatisfied with the award, the claimants made applications under Section-18 of the Act for appropriate Reference to the competent Court. Accordingly, the Reference was ordered. The learned trial Judge, after recording the evidence and hearing the parties, came to the conclusion that the claimants were entitled to the compensation at the rate of Rs.85/- per sq. mtr. i.e. Rs.67/- over and above what has been awarded by the Land Acquisition Officer. The appellants, being aggrieved by the said judgement and award, are now before this Court with various submissions.

3. Though various questions were raised before the

Court, but, the parties mainly confined their arguments to the question of consideration of Judgement dated 22nd December, 2003, delivered in First Appeal No.522 of 2000 to First Appeal No.544 of 2000 and First Appeal No.358 of 2001.

4. Mr.Ajay R.Mehta, learned Counsel for the appellants, submitted that in the said matters, the question of the very same notification was under consideration and the land was also of the same Village-Hanumanth. He submits that after hearing the parties, the Court found that the just and equitable compensation would be Rs.54/- per sq. mtr. and, therefore, the claimants would be entitled to nothing more, over and above Rs.54/- per sq. mtr., though O.N.G.C. Ltd. is still aggrieved by that award and has taken the said matter before the Supreme Court.

5. Mr.P.K.Jani, learned Counsel for the respondents, on the other hand, submits that as correctness of the said judgement, delivered in First Appeal No.522 of 2000 (group judgement), has yet not reached finality, it would not be proper to award Rs.54/- per sq. mtr. On being asked that whether the claimants of the said matter ever challenged the judgement of the High Court, Mr.Jani submitted that to the best of his knowledge, `No'.

6. Taking into consideration the totality of the circumstances and that the issue relating to the same notification and land of the same village, has come to the

finality in the earlier matters before this Court, we must observe the earlier judgement and hold that the respondents - claimants would be entitled to Rs.54/- per sq. mtr. i.e. Rs.36/- per sq. mtr. over and above what has been awarded by the Land Acquisition Officer. We hereby modify the judgement and award delivered by the trial Court, with a direction that each of the claimant shall be entitled to a sum of Rs.36/- over and above what has been awarded by the Land Acquisition Officer i.e. Rs.54/- in gross. We also make it clear that this judgement shall be subject to the final outcome of the matter pending before the Supreme court, at the instance of the O.N.G.C. Ltd. We make it further clear that in case, the appeals filed by the O.N.G.C. Ltd. are dismissed, then, Rs.54/- would be taken to be the just compensation and if the appeals are allowed and the compensation is further reduced, but, this judgement is not challenged by the O.N.G.C. Ltd. before the Supreme Court, then too, Rs.54/- would be taken to be the just compensation and in case, any cross objections are filed by the claimants before the Supreme Court and the compensation is enhanced in favour of those claimants, then, the present claimants-respondents would be entitled to make an application for review of this order so that the compensation, as awarded by the Supreme Court, is granted in their favour. We also make it clear that the amount of compensation shall carry interest in terms of the judgement delivered in First Appeal No.522 of 2000. The appeals are accordingly disposed of. Necessary decree be framed.

[***R.S.Garg, J.***]

[***K.M. Mehta, J.***]

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